

IN THE CIRCUIT COURT OF LEFLORE COUNTY, MISSISSIPPI

**APOLONIA SCOTT, as Personal Representative
of the Estate of KELSEY SCOTT, Deceased**

PLAINTIFF
USDC No. 4:22cv63-DMB-JMV

VS.

CAUSE NO.: 2022-0013-CICI

**TENNESSEE STEEL HAULERS, INC. and
DERRICK HOWARD**

DEFENDANT

COMPLAINT
(Jury Trial Demanded)

COMES NOW the Plaintiff APOLONIA SCOTT, as Personal Representative of the ESTATE OF KELSEY SCOTT, deceased, on behalf of said ESTATE and the survivors of KELSEY SCOTT (hereinafter "Kelsey"), to wit: APOLONIA SCOTT, HARRY SCOTT, HAILEY SCOTT, PAISLEY BOSTON, AND EISEN SCOTT, and files this *Complaint* and show that they are entitled to relief against the Defendants based upon the following allegations:

PARTIES AND JURISDICTIONAL STATEMENT

PARTIES

1. This is an action for damages in excess of One-Hundred Thousand dollars (\$100,000.00), exclusive of interest and costs.
2. Plaintiff is an adult resident citizen of the County of Leflore County, State of Mississippi, and resides at 617 West Gresham, Indianola, Mississippi 38951 and is the biological mother of the Kelsey Scott, deceased.
3. The potential beneficiaries of a recovery for the wrongful death of the decedent and their relationships to decedent are as follows:
 - a. Apolonia Scott, biological mother of decedent;
 - b. Harry Scott, biological father of decedent;
 - c. Hailey Scott, biological sister of decedent;

- d. Paisley Boston, biological sister of decedent,
 - e. Eisen Scott, adopted brother of decedent, and
 - f. The Estate of Kelsey Scott, Deceased.
4. Upon information and belief, Defendant TENNESSEE STEEL HAULERS, INC. (hereinafter "Defendant TSH") has been the owner/lessee of the subject 2021 Kenworth T680 semi-truck, license plate number L505OHY, registered in the state of Tennessee, Vehicle Identification No. 1XKYD49XXMJ429648, and has been authorized to do and has been actively doing business in the state of Mississippi.
5. Upon information and belief, Defendant DERRICK HOWARD (hereinafter "Defendant Howard") was the driver of the aforementioned 2021 Kenworth T680 semi-truck at the time of the incident subject of this Complaint, and is a resident of 30918 Creek Valley, Denham Spring, LA 70726.

JURISDICTION and VENUE

6. This Court has jurisdiction over the subject matter herein pursuant to the provisions of Section 9-7-81 of the Mississippi Code, annotated, as amended, in that this cause of action is not made exclusively cognizable in some other Court by either the Constitution or the laws of this state, and by virtue of that the principal amount in controversy exceeds Two Hundred Dollars (\$200.00).
7. Venue is proper in this Court pursuant to the provisions of Section 11-11-3(1)(b) of the Mississippi Code, annotated, as amended, in that the subject accident occurred and/or accrued in Leflore County.

FACTS

8. On or about March 11, 2022, Kelsey was traveling eastbound on Highway 82 West and driving a 2015 Lexus IS 500 in Leflore County, Mississippi.
9. Simultaneously, Defendant was also traveling eastbound on Highway 82 West, Leflore County, Mississippi, immediately behind Kelsey, whereas said Defendant caused his 2021 Kenworth T680 semi-truck to collide into the back of Kelsey's vehicle, which had stopped at a red light in front of him.
10. As a result of Defendant HOWARD's negligence, the auto collision with Kelsey occurred.
11. As a direct and proximate result of Defendant HOWARD's negligence, Kelsey was instantly killed.

DUTIES AND BREACHES

COUNT I: NEGLIGENCE **BY DERRICK HOWARD**

12. Plaintiff incorporates the allegations of paragraphs 1-11 as if set forth fully herein.
13. At said time and place, Defendant HOWARD owed Kelsey a duty to operate the said semi-truck in a reasonably safe manner.
14. Defendant HOWARD breached his duty of care by operating said semi-truck in such a careless, reckless, and negligent manner as to cause the subject collision and the resulting death of Kelsey, as well as all damages resulting therefrom said collision.
15. The sole and proximate causes of the aforesaid collision, together with the resulting damages and death suffered by Kelsey, were the negligent acts and omissions of Defendant HOWARD, which included, but was not necessarily limited to, the following:

- a. Defendant HOWARD negligently failed to keep proper lookout for other vehicles on the roadway, including but not limited to, that of Kelsey;
- b. Defendant HOWARD negligently failed to maintain reasonable control of his vehicle;
- c. Defendant HOWARD negligently failed to yield to the right-of way of Kelsey;
- d. Defendant HOWARD negligently failed to drive properly; and
- e. At all relevant times, Defendant HOWARD owed unto Kelsey, and all others using the said highway, the duty to exercise reasonable care in the operation of his motor vehicle, and to obey the rules of the road of the State of Mississippi, which Defendant HOWARD failed to do so.

COUNT II: LIABILITY OF TENNESSEE STEEL HAULERS, INC.

16. Plaintiff incorporates the allegations of paragraphs 1-11 as if set forth fully herein.
17. That Defendant TSH was the owner/lessee of the 2021 Kenworth T680 semi-truck, license plate number L505OHY, registered in the state of Tennessee, Vehicle Identification No. 1XKYD49XXMJ429648, and at all times material hereto had custody and control of said semi-truck.
18. That Defendant TSH did entrust the above-referenced semi-truck to the operation and control of Defendant HOWARD.
19. That Defendant TSH as owner/lessee of the previously described semi-truck/dangerous instrumentality is vicariously liable for the negligent acts, damages, and death caused by Defendant HOWARD as a result of giving its consent and/or permission to Defendant HOWARD to operate said semi-truck. Defendant HOWARD was also in the course and

scope of his employment with Defendant TSH at the time of his negligence which proximately caused the subject fatal collision.

20. As a legal, direct, and proximate result of the negligence of Defendant HOWARD for which Defendant TSH is vicariously liable, Kelsey suffered a tragic death.

DAMAGES and CAUSATION

21. As a direct and proximate consequence of the incident, as caused by Defendants, Kelsey was untimely killed and suffered damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands all damages recoverable against Defendants HOWARD and TSH under the “Mississippi Wrongful Death Act,” via Miss. Code Ann. §11-7-13, for the death inflicted upon Kelsey including but not limited to, loss of support, loss of society, past and future mental pain and suffering, past and future loss of services, past and future loss of earnings, medical and funeral expenses, and any and all other damages recoverable individually by APOLONIA SCOTT, HARRY SCOTT, HAILEY SCOTT, PAISLEY BOSTON, AND EISEN SCOTT, as surviving wrongful death beneficiaries and for any such further relief this Court deems just and proper. Plaintiff also seeks punitive damages, compensatory damages, and any and all damages allowed by Mississippi law, pre-judgment interest, post-judgment interest, attorney’s fees, and all costs of this proceeding with such final amount being an aggregate sum equal to the maximum amount of recovery allowed plus any recovery to be determined by a jury or finder of fact and allowed under any applicable state laws and guidelines.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury as to all issues triable by jury as a matter of right.

Dated, this the 22nd day of March, 2022.

PALMR LAW SERVICES, LLC



By:

**CARLOS D. PALMER, MSB#100778
TANGALA L. HOLLIS-PALMER,
MSB#103301**

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FILED

MAR 22 2022

ELMUS STOCKSTILL, CIRCUIT CLERK
BY  D.C.